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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,813	01/21/2004	Theresa Ernest	1008.03	1004

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COX SMITH MATTHEWS INCORPORATED
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SAN ANTONIO, TX 78205-1521

EXAMINER

HUYNH, KHOA D

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 07/06/2006 .

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/761,813

Applicant(s)

ERNEST ET AL.

Examiner

Khoa D. Huynh

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/11/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 20-25, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welch et al. (4781713) in view of Jacovitz (5438708).

Regarding claim 20, the Welch et al. discloses a urinary collection apparatus. The apparatus includes a pad (Fig. 4) having a waterproof shell (at 22). The waterproof shell has a shell orifice (about 13) defined by a rim (12) of the waterproof shell. The shell orifice opens into a shell receptacle space (the interior space labeled 13a). The apparatus also includes a liquid reception panel (23 or 24) enclosed substantially within the shell receptacle space, and an absorbent material (25) situated with the shell receptacle space and secured in substantial juxtaposition (or side by side) with the liquid reception panel. The apparatus, as shown in Figure 3, is attached to the outer surface of a device (30) to be used on a person.

The Welch et al. reference DIFFERS in that it does not specifically include a substantially liquid-impermeable hand enclosure as claimed. Attention, however, is directed to the Jacovitz reference which discloses another waste collection apparatus (Fig. 3) having a combination of a pad (117) attached to the

outer surface of a substantially liquid-impermeable hand enclosure (105) which has a hand aperture therein. The aperture, as shown in Figure 1, opens into a first interior space of the hand enclosure for receiving a user's hand so that waste material could be collected, while avoiding contact between the user and the waste material. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Welch et al. apparatus by employing a substantially liquid-impermeable hand enclosure, in view of the teaching of Jacovitz, in order to utilize the movement capabilities of a person's hand, palm and fingers to collect waste material, while avoiding contact between the waste material to be collected and the user's skin or clothing.

Regarding claim 21, as shown in Figure 4 of the Jacovitz reference, the hand enclosure is sized and shaped for, upon inverting thereof, the formation of a second interior space defined by the outer surface and sized for reception of the pad fully within the second interior space.

Regarding claims 22 and 23, the rim (12) is pre-contoured to conform to para-urethral physiology of a human female (col. 2, lines 51-55 of Welch et al.).

Regarding claim 24, as shown in Figure 3 of the Welch et al. reference, the shape of the pad is concave.

Regarding claim 25, as shown in Figure 4 of the Welch et al. reference, the shape of the pad is ovoid.

Regarding claim 27, the absorbent material (25) is a super-absorbent layer.

Regarding claim 28, as shown in Figure 4 of the Jacovitz reference, the hand enclosure is invertible and closeable about the pad, and wherein the pad has an ovoid, concave shape configured for collecting a urinary discharge.

3. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Welch et al. (as discussed supra) in view of Zhao et al. (6514602).

The modified Welch et al. reference DIFFERS in that it does not specifically that the absorbent material including hydrophilic gel as claimed. Attention, however, is directed to the Zhao et al. reference which discloses another urine collection apparatus for a female user. The apparatus includes a pad having a waterproof (impervious) layer or lining (about 38) and a layer of absorbent material (about 44). The Zhao et al. reference also discloses that the layer of absorbent material can be made from a variety of materials including absorbent gelling material (col. 12, lines 50-67). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the modified Welch et al. apparatus by employing an absorbent material comprising gel, in view of the teaching of Zhao et al. Such modification would be considered a mere choice of a preferred absorbent material on the basis of its suitability for the intended use.

Response to Amendment

4. Applicant's amendment, filed on 04/11/06, to the pending claims is insufficient to overcome the rejections as discussed above.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
6. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

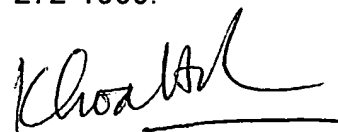
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-3:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3751

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read 'Khoa D. Huynh', with a horizontal line underneath.

Khoa D. Huynh
Primary Examiner
Art Unit 3751

HK
06/23/2006